

ESTTA Tracking number: **ESTTA726580**

Filing date: **02/11/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	GEA, Inc. a/k/a Grand Estates Auction		
Entity	Corporation	Citizenship	Nevada
Address	9115-F Old Statesville Road Charlotte, NC 28269 UNITED STATES		
Attorney information	Steven M. Weinberg Holmes Weinberg, PC 30765 Pacific Coast Hwy Suite 411 Malibu, CA 90265 UNITED STATES hwtrademarks@gmail.com, msalvatore@holmesweinberg.com Phone:310 457 6100		

### Applicant Information

Application No	86662581	Publication date	01/19/2016
Opposition Filing Date	02/11/2016	Opposition Period Ends	02/18/2016
Applicant	PLATINUM LUXURY AUCTIONS LLC 201 S. Biscayne Blvd., 28th Floor Miami, FL 33131 UNITED STATES		

### Goods/Services Affected by Opposition

Class 035. First Use: 2010/05/22 First Use In Commerce: 2010/05/22 All goods and services in the class are opposed, namely: Arranging and conducting auctions in the field of real estate
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### Grounds for Opposition

The mark is merely descriptive	Trademark Act section 2(e)(1)
The mark is generic	Trademark Act section 2(e)(1)

Attachments	2016.02.10_Notice of Opposition re LUXURY AUCTION.pdf(158414 bytes )
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## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Nelda Piper/
Name	Nelda Piper
Date	02/11/2016

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re App. Serial No. 86/662,581

GEA, Inc. a/k/a Grand Estates Auction  
Company,

Opposer,

v.

Platinum Luxury Auctions LLC,

Applicant.

**NOTICE OF OPPOSITION**

TO: ASSISTANT COMMISSIONER FOR TRADEMARKS  
**BOX TTAB –FEE**  
2900 Crystal Drive  
Arlington, VA 22202-3513

Opposer GEA, Inc. (“Opposer”), a corporation organized and existing under the laws of the State of Nevada, believes that it would be damaged by the registration of the above-referenced application, and hereby opposes the same. As grounds for this Opposition, Opposer respectfully alleges as follows:

1. Opposer is a corporation organized and existing under the laws of the State of Nevada, having a place of business at 9115-F Old Statesville Road, Charlotte, North Carolina 28269.

2. The name subject to this Opposition is LUXURY AUCTION, Serial No. 86/662,581 (the “Opposed Phrase”) for “Arranging and conducting auctions in the field of real estate” in International Class 035.

3. Applicant filed United States Application Serial No. 86/662,581 with the U.S. Patent and Trademark Office on or about June 15, 2015. The application for the Opposed Phrase is based on a claim of actual use.

4. Since prior to the application date of the Opposed Phrase or the alleged date of first use of the Opposed Phrase in commerce, and continuing to the present, Opposer is and has been engaged in the business of luxury auctions of real estate.

5. Since prior to the application date of the Opposed Phrase or the alleged date of first use of the Opposed Phrase in commerce, Opposer has and continues to use the words “luxury auction” in connection with its marketing of luxury auctions of real estate.

6. Numerous third parties in the business of luxury real estate auctions have used the phrase “luxury auction” in connection with their businesses.

7. In its registration of PLATINUM LUXURY AUCTIONS, Reg. No. 4547252, Applicant disclaimed exclusive rights in the term “luxury auctions” apart from the mark as shown.

8. The phrase “luxury auctions” as used by Applicant has not acquired and could not acquire distinctiveness.

9. If the Opposed Phrase is granted registration, Opposer will be unable to describe its services by using the commonly recognized term for these services, namely a “Luxury Auction.”

### **First Ground for Cancellation**

#### **(Descriptive under Section 2(e)(1) of the Act)**

10. Opposer incorporates Paragraphs 1 through 9 of this Notice of Opposition as though fully alleged herein.

11. The term “luxury auction” is generally understood to refer to the auction of a luxury item, and in the field of real estate auctions, is commonly used and understood as referring to auctions of luxury real estate properties.

12. The Opposed Phrase is merely descriptive or highly descriptive of the Applicant’s stated services and should be refused registration under Section 2(e)(1) of the Act.

13. The Opposed Phrase has not acquired distinctiveness.

### **Second Ground for Cancellation**

#### **(Generic under Section 2(e)(1) of the Act)**

14. Opposer incorporates Paragraphs 1 through 13 of this Notice of Opposition as though fully alleged herein.

15. The relevant public uses or understands the Opposed Phrase to refer to the category or class of services applied for by Applicant.

16. The Opposed Phrase is therefore generic and not registrable under the Act.

17. The registration of the Opposed Phrase would be inconsistent with Opposer’s rights and will cause damage to Opposer.

WHEREFORE, Opposer GEA, Inc. respectfully prays that registration of the Opposed Phrase not be permitted.

DATED this 11<sup>th</sup> day of February 2016.

Respectfully submitted,

By: \_\_\_\_\_

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Counsel for Opposer GEA, Inc.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true copy of the foregoing NOTICE OF OPPOSITION was served by USPS Priority Mail to Applicant's counsel at the following address:

Mark C. Johnson  
The Concept Law Group, P.A.  
200 South Andrews Ave., Ste. 100  
Fort Lauderdale, FL 33301

Dated: February 11, 2016

By: /s/ Nelda Piper  
Nelda Piper